IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

Crl.MC.No. 4048 of 2006()

ST.529/2006 of PRINCIPAL MUNSIFF'S COURT, THIRUVANANTHAPURAM.

.....

PETITIONER: ACCUSED

KUMARI MRIDULA,
D/O.VIMALA KUMARI, B-3,
VIJAYAMOHINI MILL QUARTERS,
THIRUMALA P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.SANTHAN V.NAIR

RESPONDENTS: STATE AND COMPLAINANT

---

1. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. BALAKRISHNAN,
S/O.KRISHNA PILLAI, NO-150,
PULIVILAKATHUPUTHEN VEEDU, SCT NAGAR,
CHALAKUZHI ROAD, PATTOM P.O., THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.4048 of 2006

Dated this the 15th day of December 2006

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Her former husband is the complainant. The matrimonial dispute between the parties was settled when proceedings were pending before the Family Court. Divorce on mutual consent was awarded. Order passed in that petition clearly shows that an amount of Rs.3,00,000/- was paid by the petitioner to her husband by cheque. The prosecution under Section 138 of the Negotiable Instruments Act relates to that cheque.

2. The petitioner has come to this court with a prayer that all further proceedings in the prosecution under Section 138 of the Negotiable Instruments Act may be stayed, invoking the powers under Section 482 Cr.P.C.

3. What is the reason? The learned counsel for the petitioner submits that the petitioner was compelled to part with the cheque for Rs.3,00,000/- and that she has initiated the proceedings before the Family Court as O.P.No.8/2005 for a

declaration that no amount is due from her to the complainant. Until the said proceedings in O.P.No.8/05 is disposed of, proceedings in the prosecution under Section 138 of the Negotiable Instruments Act (S.T.No.529/2006 before the Principal Munsiff/Magistrate, Thiruvananthapuram) may be stayed.

4. I do not find any compelling reasons that can persuade me to grant an indefinite stay in the matter. At the same time, I am satisfied that there can be directions issued to ensure the interests of justice. It is not necessary to wait for issue and return of notice to the respondent. I am satisfied that appropriate direction can be issued in the interests of justice, even without waiting for appearance of the respondent.

5. This Criminal Miscellaneous Case is in these circumstances allowed in part and the following directions are issued.

i) Family Court, Thiruvananthapuram shall dispose of O.P.No.8/05 as expeditiously as possible - at any rate within a period of three months from this date.

ii) The trial in S.T.No.529/06 before the Principal

Munsiff/Magistrate, Thiruvananthapuram shall not be commenced prior to 15/04/2007.

6. It is made clear that this order shall not stand in the way of the learned Principal Munsiff/Magistrate, Thiruvananthapuram taking all further steps up to the commencement of trial within the period of four months.

7. Communicate this order to both courts forthwith. Hand over copy of this order to the learned counsel for the petitioner also immediately for production before the Family Court.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006